

# Civil Law Enforcement



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# Civil Law Enforcement



- California's "UCL" B&P § 17200
- Civil Law Enforcement
- "Our" Procedures
- Questions

# California's "UCL"

- B&P §§ 17200 et seq., California's Unfair Competition Law ("UCL"):
  - Any *Unlawful, Unfair, Deceptive or Misleading* Business Act or Practice.
  - Up to \$2500 per violation
- Defendant(s) must be in Business

# California's "UCL"

- "Business" means legitimate or illegitimate!
- Any activity that is "forbidden by law be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court-made."
- It is only necessary to prove that defendants engaged in a business practice or act that was either unlawful, unfair, or fraudulent."

# California's "UCL"

- The “unlawful” acts are the “underlying” allegations to the UCL enforcement action.
- Example:
  - Defendant is a tire hauler in Fresno.
  - The Owner does not have a permit to haul tires.
  - The hauler does not have a Waste Tire Manifest.
  - The owner has not submitted a copy of their Waste Tire Manifest to Fresno County Health Department.
  - Hauler is observed hauling tires without a decal in the lower right-hand corner of the windshield.
  - Hauler does not have a valid Registration Certificate.
  - Hauler is transporting 15 tires.
  - Hauler is caught by investigators dumping tires on a Fresno County roadway in the country.

# California's "UCL"

- UCL Underlying Allegations for Hauler:
  - Penal Code § 374.3(a) [unlawful disposal on a roadway]
  - California Vehicle Code §§ 31560(a) [transporting 10 or more tires without CIWMB registration]
  - Public Resources Code §§ 42961.5(c)(1) [failure to possess / maintain Waste Tire Manifest], 42956(a) [transporting 10 or more tires without decal]

# California's "UCL"

- UCL May be Used to Enforce:
  - Sales of Tobacco to Minors
  - Sales of Alcohol to Underage Persons
  - Possession or Sales of Counterfeit or Untaxed Cigarettes
  - Possession or Sales of Shuriken
  - Possession or Sales of Drug Paraphernalia
  - Smoking in Bars & Restaurants
  - Unlawful Lottery
  - Tire Hauler Without Permit

# Civil Law Enforcement

## ● Criminal

- Misdemeanors or Infractions
- Patrons, Employees and Owners can be Cited
- Beyond a Reasonable Doubt

## ● Civil

- Unlawful, unfair, deceptive or misleading business act or practice
- Employees and Owners can be Sued
- Preponderance of the Evidence



# Civil Law Enforcement

## ● Criminal

- One Year S-O-L
- Right to Attorney
- Right to Jury Trial
- Fines
- Possible Jail/Probation

## ● Civil

- Four Years S-O-L
- No Right to Attorney
- No Right to Jury Trial
- Civil Penalties
- Injunction

# Civil Law Enforcement

## ● Fresno Experiences...

- UCL is very useful for enforcement of crimes by business owners.
- Business Owners are held accountable.
- Injunctions keep businesses accountable.  
(Violations result in civil penalties up to \$6,000 each.)
- Word spreads among Business Owners.
- Businesses begin to comply with law.

# Civil Law Enforcement

## ● Benefits

- Civil Injunctions are Often More Severe than Criminal Sanctions.
- VERY Flexible with Regard to Settlement Options.
  - Civil Penalties (fines)
  - Restitution
  - Cost Recovery
  - Property Forfeiture
  - Injunction
  - Press

# “Our” Procedure

- Pre-filing

- Letter(s) to Employees and Business Owners.

- Pre-filing meeting.

- STRESS COMPLIANCE.
- Explain Criminal v. Civil.
- Possible Remedies.
- Respondeat Superior.

- Settlement or Lawsuit

# Questions?



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